

REMARKS

Claims 1-7 are currently pending. Claims 1 and 7 have been amended to more clearly set forth the subject matter of the invention. Support for these amendments is found in the published application at page 3, line 10 in paragraph [0025]. Reconsideration is respectfully requested in view of the amendments and following remarks.

Rejections Under 35 U.S.C. § 103(a)

Claims 1-3 and 6 have been rejected under 35 U.S.C. §103(a). In the office action dated July 7, 2006, page 2, paragraph 4, the Examiner states, "Claims 1-3 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 02/08327 A1 to Anderle et al. ("Anderle") in view of U.S. Patent No. 4,120,850 to Pechhold ("Pechhold"). Applicants respectfully submit that the amendment of claim 1 obviates these rejections.

Anderle discloses a polyurethane dispersion that may include a polyether diol. The polyether diol may be derived from any alkylene oxide such as ethylene oxide, propylene oxide, butylene oxide, styrene oxide, tetrahydrofuran, epichlorohydrin, and mixtures thereof. Anderle, page 11, lines 17-19. Anderle does not disclose, teach or suggest any copolymers of ethylene oxide and tetrahydrofuran.

Pechhold discloses polyether urethane polymers prepared from copolymers of tetrahydrofuran and ethylene oxide. The Examiner has cited Pechhold for disclosure of a THF copolymer soft segment having 25-60% ethylene glycol as a comonomer. The Examiner proposes that the motivation to combine this teaching of Pechhold with Anderle would be to "obtain polyurethane products with better resistance to degradation on exposure to moisture." Office Action of 3/2/2007 page 3, lines 5-8. However, Pechhold does not teach that the THF copolymer results in the resistance to moisture degradation. To the contrary, Pechhold teaches that the use of a diol chain extender achieves the resistance to moisture degradation. Pechhold states at column 1, lines 39-46: "The use of diols as chain-extending agents in preparing the polyurethanes of the invention not only provides polyurethanes with better resistance to degradation on exposure to moisture than those of Azelrood and Lajiness, but also eliminates the use of the carcinogenic amines."

The teaching of Pechhold with respect to the diol chain extenders affects the establishment of a *prima facie* case of obviousness in two respects. First, there is no motivation to combine the THF copolymer of Pechhold with the polyurethane of Anderle because according to Pechhold, it is the diol chain extender of Pechhold and not the THF copolymer that provides the improved properties with respect to moisture degradation. Second, there would be no expectation of success with respect to the articles of the present invention, which have been found to unexpectedly have a resistance to degradation upon exposure to moisture even though these articles may be prepared without Pechhold's diol chain extender.

The present claims have been amended to require an organic solvent or diluent in the polyurethane dispersion. An organic solvent is not disclosed by Anderle which avoids the use of such solvents. Anderle is directed to the use of a plasticizer which specifically replaces an organic solvent or diluent in the dispersion of Anderle. As such Anderle not only fails to disclose the inclusion of an organic solvent, but also teaches away from this addition.

Since the combination of Anderle and Pechhold fail to disclose, teach or suggest every element of the present claims and actually teach away from the claims as amended, they fail to establish a *prima facie* case of obviousness with respect to the present application. Reconsideration and withdrawal of the rejections of under Section 103, are appropriate and respectfully requested.

Claims 4 and 5 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Anderle in view of Pechhold and further in view of U.S. Patent No. 5,198,523 to Baumann et al. ("Baumann"). This rejection is respectfully traversed.

Baumann is only cited to show the puncture strength and tear strength of the articles prepared therein. Given that Baumann teaches a thermoplastic polyurethane which is different from the polyurethanes taught by Anderle and Pechhold, the references are not properly combinable, since the properties of a particular polyurethane would not necessarily be the same as the properties of a different polyurethane. However, even if combined with Anderle and Pechhold, Baumann does not cure any of the deficiencies of those references in establishing a *prima facie* case of obviousness with respect to the claims from which claims 4 and 5 depend.

Therefore, reconsideration and withdrawal of rejection of claims 4 and 5 are appropriate and respectfully requested.

Claim 7 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Anderle in view of Pechhold in view of U.S. Patent No. 5,998,540 to Lipkin et al. ("Lipkin"). This rejection is respectfully traversed.

Anderle and Pechhold are cited, again, to allegedly show the remaining features of the inventive composition, and are insufficient to establish a *prima facie* case of obviousness as discussed above. Considering that Lipkin is only cited to show the method of preparing the article, Lipkin fails to overcome the deficiencies of Anderle and Pechhold. Therefore, the combination of Lipkin with Anderle and Pechhold fails to disclose, teach or suggest every element of claim 7. Accordingly, reconsideration and withdrawal of the rejection of claim 7 are appropriate and respectfully requested.

DOUBLE PATENTING

Claims 1-7 have been provisionally rejected on the grounds of non-statutory obviousness-type double patenting over U.S. Application Nos. 10/700,859 and 10/701,317 in combination with various other references. Applicants will consider the timely filing of a terminal disclaimer upon a finding of allowable subject matter.

CONCLUSION

For the reasons stated above, claims 1-7 are believed to be in condition for allowance. Accordingly, Applicants respectfully request that the Application be allowed. If prosecution may be further advanced, the Examiner is invited to telephone the undersigned to discuss this application.

Date: _____

Respectfully submitted,

Christina W. Geerlof
ATTORNEY FOR APPLICANTS
Registration No.: 45,690
Telephone: 302 683-3314
Facsimile: 302 683-3473